

## § 50.24

for losses resulting from an act of terrorism that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism. For example, if an insurer does not cover all types of risks, either because the insurer is outside of direct State regulatory oversight, or because a State permits certain exclusions for certain types of losses, such as nuclear, biological, or chemical events, then the insurer is not required to make such coverage available.

### § 50.24 Applicability of State law requirements.

(a) *General.* After satisfying the requirement to make available coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism, if coverage is rejected an insurer may then offer coverage that is on different terms, amounts, or coverage limitations, as long as such an offer does not violate any applicable State law requirements.

(b) *Examples.* (1) If an insurer subject to State regulation first makes available coverage in accordance with § 50.20 and the State has a requirement that an insurer offer full coverage without any exclusion, then the requirement would continue to apply and the insurer may not subsequently offer less than full coverage or coverage with exclusions.

(2) If an insurer subject to State regulation first makes available coverage in accordance with § 50.20 and the State permits certain exclusions or allows for other limitations, or an insurance policy is not governed by State law requirements, then the insurer may subsequently offer limited coverage or coverage with exclusions.

## Subpart D—State Residual Market Insurance Entities; Workers' Compensation Funds

### § 50.30 General participation requirements.

(a) *Insurers.* As defined in § 50.5(f), all State residual market insurance entities and State workers' compensation

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funds are insurers under the Program even if such entities do not receive direct earned premiums.

(b) *Mandatory Participation.* State residual market insurance entities and State workers' compensation funds that meet the requirements of § 50.5(f) are mandatory participants in the Program subject to the rules issued in this Subpart.

(c) *Identification.* Treasury will release and maintain a list of State residual market insurance entities and State workers' compensation funds at [www.treasury.gov/trip](http://www.treasury.gov/trip). Procedures for providing comments and updates to that list will be posted with the list.

[68 FR 59720, Oct. 17, 2003]

### § 50.33 Entities that do not share profits and losses with private sector insurers.

(a) *Treatment.* A State residual market insurance entity or a State workers' compensation fund that does not share profits and losses with a private sector insurer is deemed to be a separate insurer under the Program.

(b) *Premium calculation.* A State residual market insurance entity or a State workers' compensation fund that is deemed to be a separate insurer should follow the guidelines specified in § 50.5(d)(1) or 50.5(d)(2) for the purposes of calculating the appropriate measure of direct earned premium.

[68 FR 59720, Oct. 17, 2003]

### § 50.35 Entities that share profits and losses with private sector insurers.

(a) *Treatment.* A State residual market insurance entity or a State workers' compensation fund that shares profits and losses with a private sector insurer is not deemed to be a separate insurer under the Program.

(b) *Premium and loss calculation.* A State residual market insurance entity or a State workers' compensation fund that is not deemed to be a separate insurer should continue to report, in accordance with normal business practices, to each participant insurer its share of premium income and insured losses, which shall then be included respectively in the participant insurer's

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direct earned premium or insured loss calculations.

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### **§ 50.36 Allocation of premium income associated with entities that do share profits and losses with private sector insurers.**

(a) *Servicing Carriers.* For purposes of this Subpart, a servicing carrier is an insurer that enters into an agreement to place and service insurance contracts for a State residual market insurance entity or a State workers' compensation fund and to cede premiums associated with such insurance contracts to the State residual market insurance entity or State workers' compensation fund. Premiums written by a servicing carrier on behalf of a State residual market insurance entity or State workers' compensation fund that are ceded to such an entity or fund shall not be included as direct earned premium (as described in § 50.5(d)(1) or 50.5(d)(2)) of the servicing carrier.

(b) *Participant Insurers.* For purposes of this Subpart, a participant insurer is an insurer that shares in the profits and losses of a State residual market insurance entity or a State workers' compensation fund. Premium income that is distributed to or assumed by participant insurers in a State residual market insurance entity or State workers' compensation fund (whether directly or as quota share insurers of risks written by servicing carriers), shall be included in direct earned premium (as described in § 50.5(d)(1) or 50.5(d)(2)) of the participant insurer.

## **Subpart E—Self-Insurance Arrangements; Captives [Reserved]**

## **Subpart F—Claims Procedures**

### **§ 50.50 Federal share of compensation.**

(a) *General.* (1) The Treasury will pay the Federal share of compensation for insured losses as provided in section 103 of the Act once a Certification of Loss required by § 50.53 is deemed sufficient. The Federal share of compensation under the Program shall be:

(i) 90 percent of that portion of the insurer's aggregate insured losses that exceed its insurer deductible during each Program Year through Program Year 4, and

(ii) 85 percent of that portion of the insurer's aggregate insured losses that exceed its insurer deductible during Program Year 5 and any Program Year thereafter.

(2) The percentages in paragraphs (a)(1)(i) and (ii) are both subject to any adjustments in § 50.51 and the cap of \$100 billion as provided in section 103(e)(2) of the Act.

(b) *Program Trigger amounts.* Notwithstanding paragraph (a) or anything in this Subpart to the contrary, no Federal share of compensation will be paid by Treasury unless the aggregate industry insured losses resulting from a certified act of terrorism occurring after March 31, 2006 exceed the following amounts:

(1) For a certified act of terrorism occurring after March 31, 2006 and before January 1, 2007: \$50 million;

(2) For a certified act of terrorism occurring in 2007 and any Program Year thereafter: \$100 million.

(c) *Insured losses after March 31, 2006.* For all purposes of subpart F, insured loss or insured losses or aggregate insured losses resulting from acts of terrorism after March 31, 2006 shall be limited to those insured losses resulting from Program Trigger events.

(d) *Conditions for payment of Federal share.* Subject to paragraph (e) of this section, Treasury shall pay the appropriate amount of the Federal share of compensation to an insurer upon a determination that:

(1) The insurer is an entity, including an affiliate thereof, that meets the requirements of § 50.5(f);

(2) The insurer's insured losses, as defined in § 50.5(e) and limited by § 50.50(c) (including the allocated dollar value of the insurer's proportionate share of insured losses from a State residual market insurance entity or State workers' compensation fund as described in § 50.35), have exceeded its insurer deductible as defined in § 50.5(g);

(3) The insurer has paid or is prepared to pay an underlying insured loss, based on a filed claim for the insured loss;